

Application No.: 10/797,347

Docket No.: MOLLO 3.0-001

IN THE DRAWINGS

Attachment: Replacement Sheets 1-4

REMARKS

This amendment is filed in response to the Official Action mailed July 20, 2006, the shortened statutory period for filing a response having expired on October 20, 2006. Applicant submits herewith a one-month extension petition to reset the deadline for responding to the Official Action to and including November 20, 2006. In view of the following remarks, reconsideration of the Examiner's rejection and Notice of Allowance of all pending claims is respectfully requested.

Prior to this amendment, claims 2-12 and 14-52 were pending in this application. In paragraphs 1 and 2 of the Official Action, the Examiner indicated that Applicant's response to the Restriction Requirement was insufficient to traverse the restriction and claims 37-52 were being withdrawn from further consideration. By way of this Amendment, Applicant has canceled claims 37-52 in order to comply with the Examiner's finding. As such, claims 2-12 and 14-36 remain pending in the present application.

Before addressing the merits of the Official Action, Applicant wishes to extend his appreciation for the courtesies exhibited by Examiner Lindsey during his interviews with the undersigned of September 11 and 14, 2006. Applicant presents the enclosed remarks with close consideration to the thoughts and comments of Examiner Lindsey, and believes that the present claims are now each in a condition for allowance.

In paragraph 3 of the Official Action, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a) for failing to depict each feature of the claimed invention. Specifically, the Examiner indicated that the intersection areas or attachment areas set forth in claims 2, 14-16, 21, 27, and 32 must be shown or the features cancelled from the claims.

The intersection area and attachment area are used interchangeably, and are described, among other locations, at

paragraph [0104] of the specification, where the specification states, "the crown 102 of the helmet 100 is shown to tear at an intersection area 121, or point where the horn 122 meets the crown, as if the horns grew from within the helmet through the interior surface 116 and exterior surface 124 [of the crown]. Portions of the crown 102 are thus shown to extend above the generally domed, or bowl-like crown. These raised or torn portions 126, generally form a skirt and circumscribe the intersection area 121 between the horn 122 and the crown 102 consisting of peaks 123 and valleys 125 of material formerly forming the intact crown 102 such that the raised area is jagged. Preferably, the intersection area 121 and raised portions 126 are non-geometric, so as to promote a natural appearance of the horns 122 having sprouted from within the helmet 100." In other words, the intersection area is the boundary where the secondary element (as described above, the horn) meets the crown.

A simple analogy may assist to further describe the intersection area. Take, for example, a beverage cup placed on a flat surface, such as a desk. If one were to take a pencil and draw a circle around the base of the cup at the point where it meets (or intersects) with the desk, one would be circumscribing the intersection area between the cup and the desk. If the cup were then removed, one would see the intersection area as the area bound by the circular pencil marking.

FIGS. 1-4 have been amended to more clearly depict the annotation of reference numeral 121, corresponding to the intersection area. For example, FIG. 2, which previously did not depict annotation for reference numeral 121, has been amended to now include such an annotation. As shown clearly, the intersection area 121 in FIG. 2 is "where the horn meets the crown", as described in paragraph [0104].

Furthermore, the raised or torn portions 126, are described in the specification as forming a skirt and circumscribing the intersection area 121. As shown in FIGS. 1-4, the skirt completely surrounds the intersection of the horn and the crown and thus helps to define the limits of the intersection area.

In order to further assist the Examiner in understanding this interpretation, Applicant presents the following FIGS. A and B.

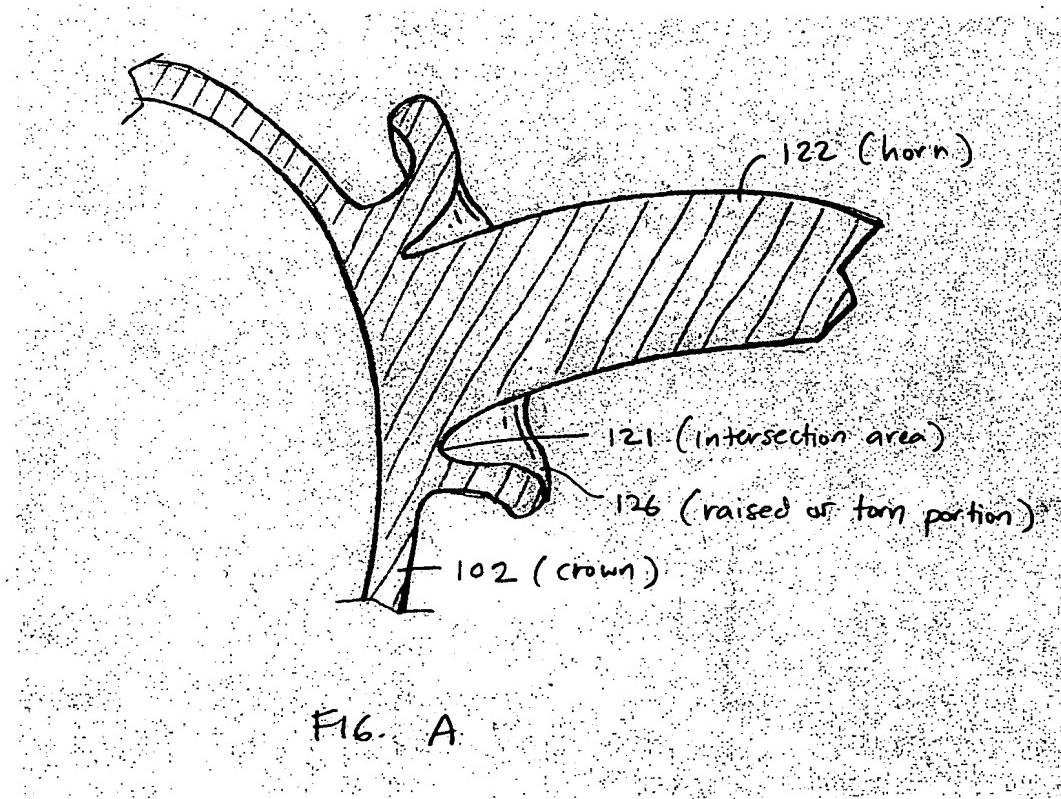


FIG. A

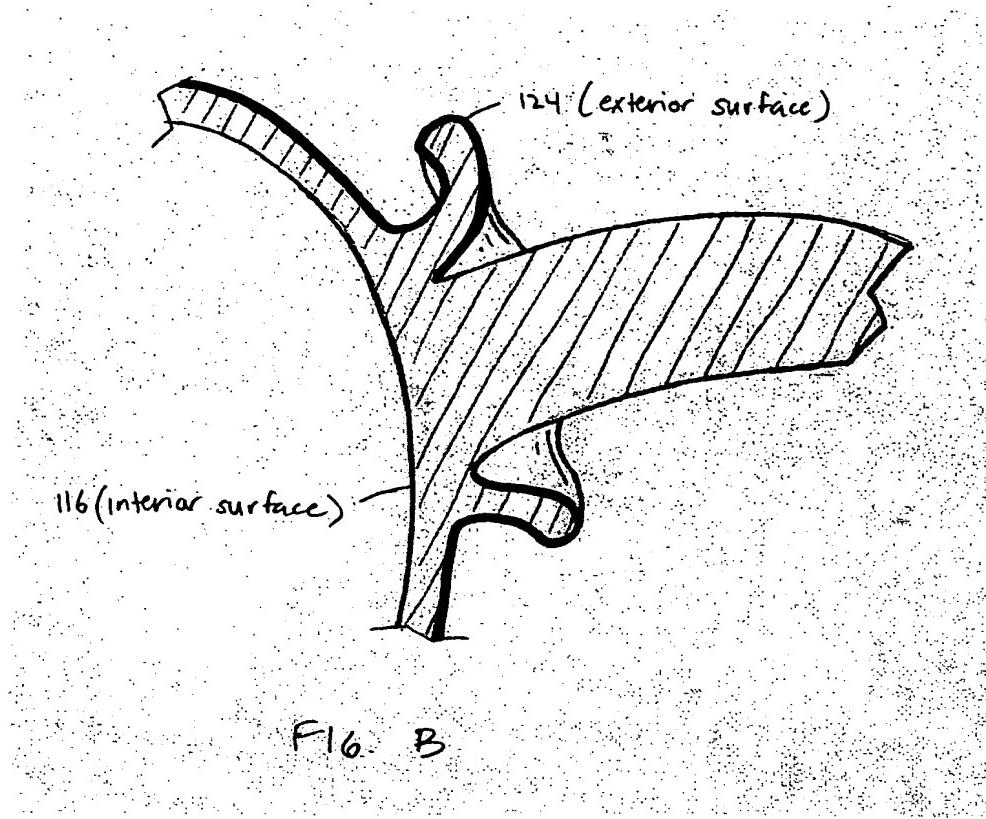


FIG. B

As shown in FIG. A, the horn 122 extends from the crown 102 from an intersection area 121. The intersection area is formed at the intersection of the horn and the crown. The crown also includes a raised or torn portion 126 which extends above the intersection area. In FIG. B, the exterior surface 124 of the crown has been enhanced for clarity. It is clear in FIG. B that the exterior surface of the crown and the horn meet at an intersection area.

Relating FIGS. A and B to the claims, and particularly for present purposes to claim 2, one can readily see that the figures do, in fact, depict each of the claimed elements. Claim 2 is presented below with annotations related to FIGS. 1-4 to ease its understanding.

2. (previously presented) Headgear 100 comprising:

a generally domed-shaped crown 102 having an exterior surface 124; and (the exterior surface is shown most clearly in FIG. B, depicted above).

a decorative secondary element 122 extending from said exterior surface at an intersection area 121 between said crown and said secondary element;

wherein a portion 126 of said exterior surface of said crown is raised above the intersection area to evince an association between the secondary element and the manner in which it extends from the crown;

wherein said secondary element and said crown are integrally molded to one another.

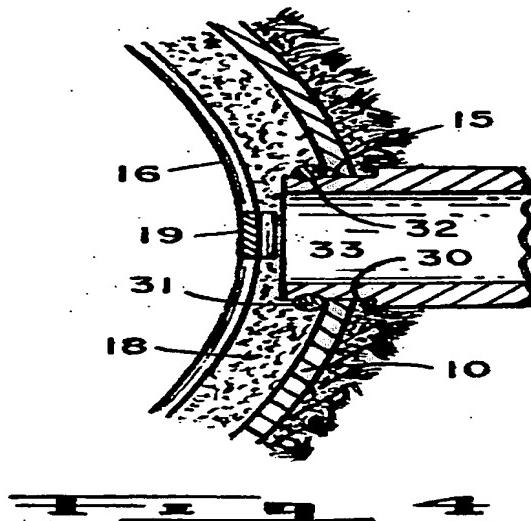
Using claim 2 as a template for the remaining claims, it is therefore clear that the intersection area is indeed shown in the figures presented in this application. It is respectfully requested that the Examiner therefore withdraw this 37 C.F.R. § 1.83(a) objection.

In paragraphs 4 and 5 of the Official Action, the Examiner rejected claims 2-12 and 14-36 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner contends that such claims contain subject matter which was not described in the specification in a manner capable of enabling one skilled in the art to which the invention pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner indicates that it is not understood how the intersection area or attachment area is defined.

With reference to the above argument, Applicant believes that the intersection area is sufficiently defined in the specification and shown in the drawing figures. Specifically, the intersection area is the portion of the headgear where the secondary element meets the crown. With specific reference to the embodiment shown in FIGS. 1-5, the intersection area 121 is

that area where the horn 122 meets the crown 102. This is shown in FIGS. 1-5 and is also clarified in FIGS. A and B.

The Examiner also notes that the intersection/attachment area may not be different from such area taught by the Fineberg reference (U.S. Patent No. 3,381,308). As a comparison, FIG. 4 of the Fineberg reference is depicted below.



As shown in FIG. 4 of Fineberg, Fineberg discloses a crown 10 (col. 2 l. 36, "shell 10.") and a horn, which is the horizontally oriented shaft shown in FIG. 4 (col. 2 ll. 42-43, "horns 28 and 29"). In Fineberg, the horn 28, 29 does intersect with the crown 10. However, in order to compare the Fineberg reference with the present invention, one must look to the present claims.

In claim 2, a portion of the exterior surface of the crown must be raised above the intersection area to evince an association between the secondary element in the manner in which it extends from the crown. In Fineberg, no portion of the crown

is raised above the intersection area. Rather, the crown 10 continues along a single arcuate path - from which it does not deviate - until the crown meets the horn 29.¹

Therefore, it is clear that no portion of the *Fineberg* crown changes in its geometry to rise above the intersection area as claimed in claim 2, and claim 2 is believed to be allowable. Each of the other remaining independent claims, namely claims 6, 14, 15, 16, 21, and 32, include similar features, and are likewise believed to be allowable.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

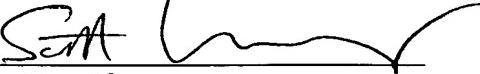
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

¹ It is specifically noted here that element 24 of *Fineberg*, the wool covering, is a separate and distinct element from the crown. (col.2 ll.26-28, "A covering 24 of wool or other suitable simulation of hair is adapted to be received over the shell base in a neat fit to enclose it. . ." (emphasis added)).

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 20, 2006

Respectfully submitted,

By 
Scott E. Charney
Registration No.: 51,548
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

710235_1.DOC